

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jun 06, 2025**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

No. 2:24-CV-00411-SAB

In re:

AGNES NICZYPORUK,  
Debtor.

**ORDER DISMISSING APPEAL**

On December 5, 2024, Debtor/Appellant Agnes Niczyporuk filed a Notice of Appeal, appealing the bankruptcy court's order denying her motion for relief from judgment. Ms. Niczyporuk is representing herself in this matter. Ms. Niczyporuk is seeking relief from the bankruptcy court's September 14, 2023 order that granted U.S. Bank Trust's Motion for Relief from Stay. The Stay Order allowed U.S. Bank to proceed with foreclosure of the Property located at 1315 N. Dunbarton Oaks Lane, Liberty Lake, WA, which took place in December 2024.

**Bankruptcy Court's Order Denying Motion for Relief from Judgment**

In its Order denying Ms. Niczyporuk's Motion for Relief from Judgment, the bankruptcy court noted that Ms. Niczyporuk had previously moved for reconsideration of the Stay Order and the bankruptcy court denied the motion. In her Motion for Reconsideration, Ms. Niczyporuk challenged the evidence indicating U.S. Bank owned the promissory note that Ms. Niczyporuk and her

**ORDER DISMISSING APPEAL ~ 1**

1 husband signed when they purchased the Property. In denying the Motion for  
2 Reconsideration, the bankruptcy court rejected these arguments because Ms.  
3 Niczyporuk failed to allege an intervening change in controlling law; newly  
4 discovered evidence, or previously unavailable evidence that was discovered. Ms.  
5 Niczyporuk appealed both the stay and reconsideration orders, and the Bankruptcy  
6 Appellate Panel affirmed. The Bankruptcy Appellate Panel affirmed the  
7 bankruptcy court's decision that no genuine issue of fact existed concerning U.S.  
8 Bank's ownership of the note.

9 With respect to the motion for relief from judgment, the bankruptcy court  
10 found that Ms. Niczyporuk merely re-packaged her prior reconsideration  
11 arguments under a different procedural rule. She offered no new evidence or  
12 substantive allegations of fraud or misrepresentation. She simply asserted there  
13 "have been several fabricated, forged, and fraudulent assignments of mortgage  
14 and/or servicing recorded," which were the same arguments Ms. Niczyporuk had  
15 previously litigated.

16 The bankruptcy court noted Ms. Niczyporuk had not made payments on the  
17 note for many months and Ms. Niczyporuk was not the legal owner of the  
18 Property, although she has lived there since 2007.

19 The bankruptcy court concluded that issue preclusion bars Ms. Niczyporuk's  
20 motion for relief from judgment.

### 21 **Standard of Review**

22 A district court has jurisdiction to hear an appeal from a bankruptcy court.  
23 28 U.S.C. § 158. "On an appeal the district court or bankruptcy appellate panel  
24 may affirm, modify, or reverse a bankruptcy judge's judgment, order, or decree or  
25 remand with instructions for further proceedings." Fed. R. Bankr. P. 8013.  
26 When examining an appeal, a district court uses the same standard of review that a  
27 circuit would use when reviewing a district court's decision. See *In re Baroff*, 105  
28 F.3d 439, 441 (9th Cir. 1997). A bankruptcy court's order granting relief from

1 judgment is reviewed for abuse of discretion. *In re Int'l Fibercom, Inc.*, 503 F.3d  
2 933, 939 (9th Cir. 2007).

3 A bankruptcy court abuses its discretion if it applies the wrong legal  
4 standard, misapplies the correct legal standard, or makes factual findings that are  
5 illogical, implausible, or without support in the record. *United States v. Hinkson*,  
6 585 F.3d 1247, 1261-62 (9th Cir. 2009) (en banc).

### 7 Analysis

8 The bankruptcy court did not abuse its discretion in denying Ms.  
9 Niczyporuk's motion for relief from judgment. The bankruptcy court properly  
10 found Debtor/Appellant's arguments before it were identical to those previously  
11 raised, considered and rejected by the courts, and therefore were barred by issue  
12 preclusion. Courts have consistently held that U.S. Bank Trust maintained  
13 possession of the original note and it was not required to present the original note  
14 to prove possession. Finally, it appears the issue of the relief from stay in the  
15 bankruptcy proceedings is moot, given the sale of the property in question. *See In*  
16 *re Royal Properties, Inc.*, 621 F.2d 984, 986 (9th Cir. 1980) ("Once the orders  
17 have been performed, an appeal attacking the order is moot). Even if the Court  
18 were to grant Ms. Niczyporuk's requested relief, it would be an advisory opinion  
19 upon a moot question.<sup>1</sup>

20 Accordingly, **IT IS HEREBY ORDERED:**

21 1. Debtor/Appellant's Appeal is **DISMISSED**, with prejudice.

22 2. Debtor/Appellant's Motion for Judicial Notice of Transcript  
23 Correction Appeal (Case No. 2:25-cv-00179-TOR), ECF No. 18, is **DENIED**, as  
24 moot.

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28 <sup>1</sup> Ms. Niczyporuk's remaining arguments are frivolous or unsubstantiated.

1           3.     The Clerk of Court is directed to enter judgment in against  
2 Debtor/Appellant and in favor of Appellees.

3           **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
4 forward copies to Plaintiff and counsel and **close** the file.

5           **DATED** this 6th day of June 2025.



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A handwritten signature in green ink, reading "Stan Bastian", is written over a horizontal line.

Stan Bastian  
Chief United States District Judge